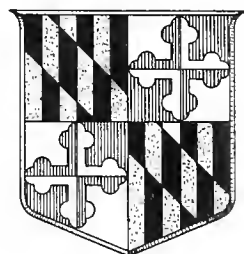




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# LEGISLATIVE COUNCILS



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LEGISLATIVE COUNCILS

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## INTRODUCTORY STATEMENT

Of the many legislative aids designed to ease the accumulating burdens of modern legislatures, the legislative council merits particular attention. The council idea is no longer a theory. This legislative agency has been largely successful in Kansas, where it was first established, it has been adopted by other states, and the idea is significantly spreading.

However, as with most "reforms," much discussion has been engendered, but most of it is based upon insufficient information. This investigation of the composition and operation of the councils in those states where they exist was undertaken in the hope of supplying the factual data requisite for an enlightened discussion of the problem on the part of the legislature and the public. It is gratifying to note that since this study was undertaken the Democratic party, the Governor, the Committee on the Structure of the Maryland State Government and various organizations have endorsed the council idea in this state. The materials of this study are submitted primarily to the Maryland General Assembly which is now considering a proposal for a legislative council, but it is felt that they will be found useful by other state legislatures as well.



Abel Wolman, Chairman  
Maryland State Planning Commission





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## PREFACE

In the preparation of this study, all the significant published materials on the subject were consulted. In addition, a lengthy questionnaire was sent to the governors, a fair number of legislators, all council members and directors of research in those states which have the "pure type" of legislative council. The purpose of the questionnaire was to secure not only unpublished factual information, but also opinions as to any changes thought desirable in the various states.

The efforts of all who cooperated with us are appreciated, but particular acknowledgment is due Dr. Horace E. Flack of the Maryland Legislative Reference Bureau and Dr. Frederick H. Guild, Director, Research Department, Kansas Legislative Council.

L.S.



## LEGISLATIVE COUNCILS

### PART I

#### Nature and Growth of Legislative Councils

The increasing demands of modern society upon our legislatures inevitably bring in their train a host of governmental problems. One of the most significant of these problems, and one going to the very hub of the successful operation of our democratic institutions, relates to the competence of a modern legislative body in dealing with the maze of intricate and elusive economic and social phenomena now forming the pattern of communal life. Are the legislatures properly equipped to handle such complex data? This question has for some time arrested the attention of students of government both within and without academic halls. Professor W. F. Willoughby, formerly Director of the Institute for Government Research at The Brookings Institution writes:

"Two of the most important developments of recent years affecting the work of our legislative bodies are: the constant augmentation in the volume of work that they are called upon to perform; and the increasing complexity and technicality of the subjects with which they have to deal. Regarding these bodies, the statement is often heard that they are, figuratively speaking, staggering under the load thrown upon them. Certain it is that, due to lack of time for their adequate consideration, there are few congresses or state legislatures which do not have to adjourn with many matters of importance not acted upon. It is with respect to the increasingly technical character of the measures coming before the legislature, however, that the greatest difficulties are encountered. Many of these measures, if they are to be properly handled, call for expert knowledge in such fields as law, economics, political science, the technology of public administration, business organization and finance, and branches of knowledge of a still more special character, a knowledge which but few of the members of our legislative bodies are likely to possess. If the legislature is measurably to meet the demands thrown upon it, these conditions cannot be ignored. In some way, these bodies must take steps for lessening the volume of business they are called upon to perform, and for securing expert aid and advice in the handling of the more technical matters with which they have to do." (Principles of Legislative Organization and Administration, p. 578 (1934)).

A competent observer of the Kansas legislature has described the situation in his state as follows:





"Each new legislature contains a number of members without previous legislative experience. Most of the legislators arrive at the capitol with two or three pet bills in their pockets, but without having in mind a well worked out program to meet the needs of the state as a whole. Confronted by more than 1,400 bills, the average member finds it expedient to turn his immediate attention to local bills. Often the committees are not able to report out important public bills until the last two weeks of the session. Largely due to mechanical difficulties, legislatures have suffered criticism and loss of prestige.... An examination of the situation will show that the governmental system is thrown out of balance by the intermittent character of the legislative process. On the other hand, administration and adjudication are practically continuous in operation...." (C. S. Strain, 27 Am. Pol. Sci. Rev. p. 801 (1933).)

Indicative of this same general attitude is the following paragraph from a report submitted several years ago by the Governor's Advisory Constitutional Revision Commission of the State of Washington:

"The legislature is entitled to this service (a legislative council). It present the members are confronted with a huge mass of unorganized material, and bewildered by conflicting information from constituents and lobbyists. From this they are expected to develop a logical and sound program of legislation. The legislature is perfectly competent to determine state policy if the material upon which such policy rests is presented to it in proper form. But to turn legislators, many of whom are inexperienced, adrift with no aid or advice, except that tendered by voluntary special interests, is to expect the impossible."

As a consequence, several techniques have been devised in the various states to cope with this problem. In many technical fields, such as ratemaking, legislative authority has been delegated to bodies of experts, such as public service commissions. In many instances the drafting of bills (a function frequently requiring training of a specialized nature) has been entrusted to administrative officers or bill-drafting agencies. Legislative reference bureaus and state planning boards have been created. Special tasks are frequently assigned to interim legislative committees or lay commissions of inquiry. The "split-session" has been used in several states. Such devices are typical of the attempts made to ease the burden of the legislature.

However, one of the most recent innovations in "legislative aids" and one of the most interesting and significant is the legislative council. In 1931 the committee on state government of the National Municipal League recommended the idea in its Model State Constitution. A council consisting of the



governor and seven members selected by and from the legislature was recommended. This council was to be entrusted with the duty of collecting information "concerning the government and general welfare of the state" and reporting thereon to the legislature. Measures for proposed legislation were to be considered by the council (sitting between legislative sessions) and reports were to be made to the legislature with the council's recommendations. The council could also prepare for submission to the legislature such bills as in the opinion of the council "the welfare of the state may require." Other powers and duties could be assigned by law.

The legislative council idea continued to spread. Today there are ten states which have translated the idea into reality in one form or another. Six states have the "pure" legislative council set-up; four states have adopted councils roughly analogous to the legislative council or, in a few instances, of a hybrid type.

The outstanding example of a state legislative council, and one which has served as a pattern for most of the others, is the Kansas council. It consists of twenty-five legislators and the president of the senate and the speaker of the house serving in an ex officio capacity. In their selection due regard is given to the various geographical districts in the state, to party alignments in the legislature, and to the representation of the more important committees of the legislature. This council, consisting of legislators, is an agency of the legislature, takes orders from the legislature and is responsible solely to it. It meets periodically between legislative sessions to discuss matters of importance that should receive the consideration of the next session. It collects the necessary materials and submits the data requisite for intelligent and informed legislative consideration. It may or may not recommend the passage of particular bills. It may or may not draft bills. Its investigatory authority is very wide. In the last analysis it may submit any proposal or



any information it sees fit to the next session. The governor may present his views to the council, and any legislator not a council member may attend its sessions and present his views, but he is not authorized to vote. The council has the authority to compel the attendance of witnesses, and administer oaths but this power is never used. The various boards, commissions and departments are required to make such studies as the council may deem advisable.

Aiding the council is a competent, impartial research staff which supplies the council with whatever factual data is desired. This staff is an extremely important adjunct to the council. Its factual findings, either alone or with some possible legislative recommendation of the council, are, at the direction of the council, distributed to the legislators for study before the next legislative session. The members of the legislature are thus afforded an opportunity to digest these materials and consult with their constituents. Many observers believe that the labors of the research staff constitute the most important aspect of the functioning of the legislative council. The crying need in our legislative halls today is for reliable data upon which to determine policy. The supplying of this information is the duty of the research staff.

The advocates of the legislative council idea insist upon the following advantages of the agency:

(1) An adequate compilation of facts requires more time than is available during a regular or special session, and the council's research staff can satisfy this want.

(2) Frequently a new legislature contains a very large percentage of new men without previous legislative experience of any kind. A well considered program with supporting data in the hands of these people before the opening of their first session would prove particularly helpful. This situation was partly responsible for the establishment of the Michigan council.

(3) Each general assembly is an entirely new body. The only continuity



with the work of previous legislatures is provided by the possible reelection of former members. Practically no permanent records or information gathered by previous assemblies are transmitted to their successors. In other words, although administration and adjudication are continuous in operation, the legislative process is intermittent. The legislative council can, in a large measure, supply the necessary continuity to legislative studies and investigation.

(4) The council can supply a responsible legislative leadership.

(5) The governor's legislative program, as embodied in his message, cannot be studied by an agency of the legislature in advance of the session. Considerable time, consequently, is lost digesting his recommendations.

(6) Under the council system not only are legislators afforded the opportunity to study legislative measures beforehand, but they have the equally valuable opportunity of consulting with and discussing such measures with their constituents.

(7) The seasonal character of legislation does not permit legislators properly to study, digest, debate, draft and decide the thousands of bills submitted for consideration. On major items, at least, as a result of the council's interim investigations, more deliberation can be had in the determination of state policy.

(8) The council will reduce the number of bills introduced.

(9) It will tend to eliminate the legislative jam at the close of the session.

(10) Since both houses of the legislature are represented on the Council, this fact will tend to minimize the bickering and wrangling which often characterize the relationship between these bodies.

(11) Party rivalry will be diminished and the possibility of impartial debate enhanced, for both major parties will be represented on the council.





(12) The council will serve as a link between the governor and the legislature.

The principal objection to the council idea is based on the possibility that many members of the council may be repudiated at the polls, and, consequently, the investigations and recommendations of that body will be sponsored by a "lame-duck" council. Governor Fitzgerald of Michigan has thus labeled the Michigan council. None of the five members of the Connecticut council was re-elected in the recent election in that state.

Although the council idea was sponsored in 1921 by the National Municipal League, it was not until 1931 that it became a reality in the form of the Executive Council of Wisconsin. Two years later legislative councils were instituted in Kansas and Michigan. In this same year Colorado established a Committee on Interim Legislative Committees, a body exercising roughly some of the functions of a legislative council. The Governor of Virginia, in 1935, appointed a Governor's Advisory Legislative Council, an unofficial body, to study matters referred to it by the governor. This body was succeeded by the Virginia Advisory Legislative Council, created by statute in 1936. During the same year New Mexico established a Committee on Interim Committees, and Kentucky set up a body to act as a legislative council and also as a commission on interstate cooperation. The movement behind the legislative council idea continues to grow. In 1937 Nebraska, Illinois and Connecticut adopted this legislative agency.

Governor Stark of Missouri, in his message to the 1937 legislature, recommended that the general assembly investigate the advisability of the creation of a legislative council. Bills establishing the council have been introduced in Missouri, California, Pennsylvania and Ohio. Senator Desmond of New York has announced that he will introduce a similar bill. The Commonwealth Club of California and the Cleveland Citizens League are behind the idea in their states. The Brookings Institution has recommended the council in its



administrative surveys made of Iowa (1933) and Oklahoma (1935), and the Constitutional Revision Commission (1935) of the State of Washington has suggested it for that state.



## PART II

### Particularized Information Concerning Legislative Councils and Kindred Agencies

#### A. Colorado and New Mexico

One method of providing for better preparation of legislative measures is the use of interim legislative committees the duties of which are to sit between sessions of the legislature for the purpose of making inquiries into particular subjects and of reporting their findings to the legislature. The disadvantages of this method are similar to those involved in the commission system. If a separate committee is to be appointed for each unrelated piece of important legislation to be investigated, it is necessary, if good results are anticipated, that funds be appropriated to meet the expenses of these bodies. The fact remains, however, that these committees have often lacked adequate funds. Second, experience has shown that these committees often duplicate the activities of one another. Third, these committees are not equipped with adequate means of research.

In order partially to obviate these difficulties, two states, Colorado (1933) and New Mexico (1936), have introduced a Committee on Interim Legislative Committees. This committee takes the place of the legislature in appointing the various interim committees. In Colorado, for example, the Committee on Interim Legislative Committees consists of the governor, the lieutenant-governor, the speaker of the house of representatives, one member of the senate and one member of the house of representatives, the latter two appointed by the presiding officers of both houses. The committee meets on the call of the governor, and appoints the members of the interim committees who conduct the required surveys and report back to the parent committee. The latter, in turn, submits the findings of such committees to the next session of the general assembly.



The Committee on Interim Committees does not have a research staff. The legislative reference bureau supplies such information and assistance as may be needed.

In the main the committee on interim committees differs from the legislative council in that the function of the former is primarily to prevent duplication of activity between, and to coordinate the work of, interim committees rather than to develop a legislative program. The experience in Kansas, for example, has been that the council has been far more successful in getting immediate consideration by the legislature of its measures. Interim committee reports in this state rarely received immediate consideration. Often the reports of such committees would not be considered until the second or third session following their submission.

#### B. Wisconsin

As distinguished from the pure type of legislative council, which is essentially an organ of the legislature, the Executive Council in Wisconsin is an advisory body to the governor. In his first message to the legislature in 1931, Governor La Follette recommended the creation of a council the purpose of which would be the careful preparation of legislation involving fundamental changes in governmental policies. The legislature accordingly established an Executive Council to consist of five senators and five assemblymen appointed by the respective houses, and of ten citizens appointed by the governor without confirmation. This provision was modified by an act of 1933 which reduced the membership of the Council to three senators, three assemblymen and six lay members. The purpose of having lay members was to draw upon leadership in industry, agriculture, finance, labor and the professions, and to associate these leaders responsibly with the discussion of state problems.





Subsequent to the act of 1935, however, the Governor felt that it would be more advisable to bring the heads of the major state departments into the Council to replace the lay members who could be more useful as members of the advisory committees attached to the various departments. This change was made. The meetings of the Council are held on call of the governor. The members receive no compensation, but are reimbursed for their expenses.

The principal duties of the Council are:

(1) To investigate the functioning of the government in Wisconsin for the purpose of determining possible consolidations and economies.

(2) By means of a sub-committee on business economics, to keep in touch with business conditions in the state, to investigate and study the causes of business depressions, and to give information and offer its services to any business in need of the same or operating at a loss.

(3) To advise the governor on any matter he may refer to it.

Originally the Council had the specific duty of assigning each state officer to office space in the capitol (when he was so entitled), and to approve leases made by the Director of Purchases. This duty was abolished, however, in 1935.

The Council has the power to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, documents and testimony. Other departments of the government are required to make such reports and collect such data as the Council may require. No permanent research staff is attached to the Council. The governor's office has, however, drawn upon the various research services of the state, including the University and the Legislative Reference Library.

The Wisconsin Council differs materially from a legislative council of the Kansas type. The primary function of the Executive Council is to advise



the governor and not the legislature, and it is not responsible for a legislative program. The Wisconsin Council was quite active at its inception, but it has since had a checkered career. One observer of this institution has attributed its varied career to three factors:

(1) The fact that the legislature has frequently been controlled by parties opposed to the governor's program.

(2) The nature of the Council's structure and functions.

(3) The absence of any authority to prepare and recommend a legislative program to the legislature.

It has recently served a very useful purpose, however, in an administrative reorganization in that state. "It brought some of the ranking members of the legislature into more intimate and sympathetic acquaintance with the detailed administrative problems confronting the Governor and his department heads. As a result every change in the organization of the departments which he recommended was unanimously adopted by the legislative committee members, despite the fact that the Governor's party was in a minority." (Letter from Dr. John M. Gaus of the University of Wisconsin.)

C. Kansas, Michigan, Virginia, Kentucky, Connecticut,  
Nebraska, Illinois

1. Date And Citation of Statute

Kansas: 1933; Corrick's General Statutes of Kansas, 1935,  
ch. 46, 301-312.

Michigan: 1935; Compiled Laws of Michigan, Supplement, 1935, Act 206,  
Sec. 12.2-12.8.

Virginia: 1936; Acts of Virginia, 1936, ch. 170.

Kentucky: 1936; Acts of General Assembly, Extraordinary Session,  
ch. XXI. Amended April 9, 1938.



Connecticut: 1937; 1937 Supplement of General Statutes, ch. I, sec. 3d.

Nebraska: 1937; 1937 Cumulative Supplement To Compiled Statutes of Nebraska, ch. 50, 501-513, pp. 384-385.

Illinois: 1937; Jones Illinois Statutes Annotated, vol. 27, secs. 126.440 - 126.450.

## 2. Origin And Reasons For Passage

Kansas: The idea originated primarily with the Kansas State Chamber of Commerce. The reasons were that the Kansas legislature is limited to a session of fifty days each biennium, and consequently many bills were forced through the legislature without adequate consideration. Many important measures were unfavorably reported or failed to reach the voting stage. There was also a mad scramble at the close of each session. There was no legislative planning in advance of the session. As a consequence the legislature was lacking in prestige, and the governor was turned to for leadership. It was hoped the Council would serve to strengthen the legislative branch and to develop legislative leadership.

Michigan: The purpose was to improve legislation, shorten the session, prepare a legislative program and obtain requisite information on measures before the legislature. The council idea was accelerated as a result of the political upheaval in the elections of 1932 and 1933. The Democrats achieved power in these elections although the state had been predominantly Republican for eighty years. In the legislature, most of the Democrats (then in control) had no legislative experience. Three months were wasted before the legislature could undertake the consideration of a comprehensive program. The



governor (also a new man) furnished little in the way of leadership. As a result of Speaker Bradley's efforts, the legislature set up the Council.

Virginia: The Governor's Advisory Legislative Council was created when the state was offered a grant of \$25,000 from the Spelman Fund for the promotion of additional legislative research. There were no unique reasons for the origin of the present Council. The Council was granted statutory recognition when the legislature observed the advantage to be gained by subjecting important matters to a thorough advance study by legislative leaders and a competent research staff.

Connecticut: The majority leader of the house has stated that the general assembly had created several special commissions to study various proposals, and the Legislative Council was created to do this work and avoid the need for additional special commissions. The Connecticut Commission Concerning the Reorganization of the State Departments (1937) recommended the Council in its report. It stated: "The Connecticut general assembly, like the legislatures of other states, has developed all these aids (i.e. special investigating committees, etc.) to assist it in its work. They are all useful and probably essential. But neither individually nor jointly are they adequate of themselves to meet the need of enabling the general assembly to devote itself to the consideration of and action on a carefully





prepared legislative program developed by its own leaders on the basis of readily accessible and reliable information bearing upon the problems covered by that program."

Nebraska:

The bill resulted from three measures introduced into the legislature in 1937. The original measures asked for a commission to investigate taxation and a commission to investigate government. The three senators interested combined their bills into one asking for a legislative council. The reasons for passage were that the growth of governmental functions and the complexity of legislative problems require improved techniques for securing information; the desire for more scientific legislation based upon periodical reports; and the desire to have a program for meetings of the legislature.

Illinois:

The preamble of the bill creating the Council contains the following statement:

"Whereas, a disproportionate part of legislative sessions is consumed in awaiting formulation of basic legislation, the energy of large numbers of legislators being meantime diverted from their professions and livelihoods; and

"Whereas, such legislative planning and formulation as actually obtains would, by being recognized and made properly antecedent to regular sessions, conserve legislative time, save unnecessary expense, improve ensuing debate, and restore legislative activity to the high place in government and public esteem which it merits (etc.) ..."

Other statements relative to the necessity for creating a Council in Illinois are quoted below:

"He (Senator T. V. Smith, driving force behind the bill) was impressed by the vast amount of time wasted in getting down to business, by dearth of authoritative information displayed in the discussion of projected legislation, by the lack of a definite program for legislative action, by



the jockeying between the legislature and the Governor, and by the desperate jam of pending bills in the hopper during the closing weeks of the session." (N.Y. Times, Jan. 30, 1938, IV, 7:6)

From speech by Senator Smith:

"We do not work in a deliberative atmosphere; for four months we have too much leisure and for two months too much rush. We come together without a program, save what the governor would have us do; and we wait around to see whether he can make us do it. When we find, as we expected, that he can't make us do it, it is too late for us to put our heads together and decide what could best be done. So we let the possibility of a well articulated compromise condescend into the passage of this or that hodge-podge. This is a fault with a remedy in our hands." (Echoes from Springfield - Leaves from the First Legislative Record of T. V. Smith, pp. 15-18, at p. 17)

"The idea arose from the perturbation which all new members feel at the magnitude of their tasks (and there are many members new to the job each session). Confronted with hundreds of jostling bills, no new member, nor indeed any old member, can master them all; few indeed can even read them all. To vote on bills not understood seizes a scrupulous mind with a sense of insecurity, both political and personal. Moreover, the act inflicts a tinge of indignity which any proud legislator would prefer to prevent.

"Born of this need, the idea progressed as legislators, old and new alike, saw how much help to them would be a disinterested fact-finding agency working under the direction of their own colleagues, chosen by themselves. The Council bill passed the Sixtieth Assembly under the bi-partisan sponsorship of Senators Searcy and Barr, Monroe and Smith, and Representatives Adanowski and Schnackenberg with the watchful concern, in the House, of Speaker Louie E. Louis." (Statement of Senator Smith, quoted in Journal of Illinois Leg. Council, 5th Sess., May 2, 1933).

Questionnaires sent to Council members indicate that the legislative jam and lack of a program led to adoption of the Council. One senator, not a Council member, stated that the numerous commissions making studies when the legislature was not in session showed the necessity for a Council with a research staff to take over the work.



5. Number, Composition and Method of Appointment

Kansas:

Number - 25 legislators plus 2 ex officio members as compared with 165 members of the legislature. There is practically a unanimity of opinion in the questionnaires that the present size is suitable. Those that urge a change suggest from 15 to 20. One Council member was opposed to it at the beginning because of its size, and still feels, after four years' membership on the Council, that the same effective work could be done by not more than 12 or 15 members. The Director of the Research Staff writes:

"The Kansas idea is based upon a large council. It numbers 27, 15 members from the House, 10 from the Senate, the lieutenant-governor, and the speaker of the House. The two latter are the ex-officio chairman and vice-chairman respectively of the council.

There has been some discussion in Kansas concerning the advisability of a smaller council. Insofar as the council needs to represent the legislature, there is merit in the larger number. Moreover the effectiveness of the council during the legislative session depends very largely upon the number of members of the council who return to that session. Eighteen out of the twenty-seven returned in 1935, fifteen in 1937, and 16 returned in 1939. ... While they do not act together as a council, the fact that they are thoroughly informed on the general program plays no small part in the results achieved during the legislative session. This is a most important consideration. The smaller council might have few or no members back in the session following.

Of course a smaller body would cost less for meetings and would probably in some ways be as effective in directing research. However, they could not be effective in distributing over the state between council meetings the information they have secured from reports and discussions at the quarterly meetings. This also is a very valuable function, since the public gains definite information thereby and the council members return with some sense of the reaction over the state. It would be difficult for a small-sized council to do this."



Composition - The Council consists of 10 senators and 15 representatives, with the president of the senate and speaker of the house, members ex officio. The former is chairman and the latter vice-chairman. There are no lay members. The two major parties are represented in proportion to their numbers in each house of the legislature, but "in no event shall the majority party in either house be represented by more than two-thirds of the members of said council from either house" (Statute). The Council must include representatives from each congressional district and from each of the more important committees of both houses.

Most of the questionnaires were opposed to the inclusion of lay members. The Director of Research writes:

"The Kansas council is based on the idea that the legislature should attempt to see whether it can assume definite responsibility toward planning a legislative program. A council with lay members on it will be distinctly different in character from the Kansas council. We see no reason why the Kentucky council, with five lay members, in addition to 10 legislators, may not function to excellent advantage, but we doubt if it will function in precisely the same way as the Kansas council has done.

There has been some debate here as to the wisdom of bringing in lay members to cooperate with special committees of the council. It is possible that such advisory committees would be distinctly helpful. However, there is no necessity that these individuals be members of the council. They can serve just as effectively in an advisory capacity."

Many observers of the Legislative Council insist that the governor ought to be a member of such a body, but a majority of the questionnaires sent to a sample of the legislature, members of the Council and the Director of Research showed opposition to the idea. Four of the nineteen questionnaires returned stated that the governor ought to be a member. All





believed that the presiding officers should be members.

Method of Appointment - The members are appointed by the president of the senate and the speaker of the house before the close of each regular session, such appointments to be approved by a majority vote of the respective houses. The governor has no connection with the Council, except in so far as he has the privilege of delivering messages to it. Most of the questionnaires reveal that the present method of appointment is satisfactory. One thought the members should be chosen by party caucus, and another that the governor, senate president and speaker should select the members.

Michigan:

Number - The Michigan Council consists of 9 members, compared with a legislature of 132. The majority of the questionnaires reveal no opinion as to any change. A few suggest a Council of ten.

Composition - There are neither lay nor ex officio members on the Council. All members are legislators. The senate president and the speaker are members. Bi-partisan representation from the senate and house is provided for. The questionnaires reveal no suggested changes.

Method of Appointment - The president of the senate appoints 3 senators, and the speaker appoints 4 representatives. No changes were suggested in the questionnaires.

Virginia:

Number - The Virginia Council consists of 7 members, compared with



a legislature of 140. There seems to be general satisfaction with the size. The smallest number suggested in the questionnaires is 5; the largest is 12.

Composition - Two lay members are allowed by statute. In addition to the 7 regular members, the Director of the Division of Statutory Research and Drafting is designated as secretary. The State Tax Commissioner has been a member, but not by reason of his office. At least 5 members of the Council must be members of the general assembly. The practice has been to select veteran legislative leaders. Although the speaker is not legally entitled to membership by virtue of his office, he has been a member. The opinions in the questionnaires are divided on the question of whether or not there should be lay members. There is general agreement, however, that the governor and presiding officers need not be members.

Method of Appointment - All the members are appointed by the governor. The questionnaires reveal no desired changes.

Kentucky:

Number - The Kentucky Council as originally set up (1936) contained 15 members. In 1938 the number was increased to 21. There is one honorary member and 2 ex officio members. The size of the legislature is 130.

Composition - Originally the council consisted of 5 senators, 5 representatives and 5 administrative officials. It now contains 3 senators, 8 representatives and 5 administrative officials.



The governor is an honorary member, the lieutenant-governor an ex officio member and chairman, and the speaker an ex-officio member and vice-chairman. The party representation must be in proportion to the number of members of the different parties in each house. In no event can the majority party "in either House be represented by more than  $\frac{5}{8}$  (formerly  $\frac{3}{5}$ ) of the members of said Council from either House." (Statute)

Method of Appointment - The senators are appointed by <sup>the</sup> lieutenant-governor, and the five representatives by the speaker, such appointments to be approved by a majority in the respective houses. The state officials are appointed by the governor.

Connecticut:

Number - Connecticut has a 5 member Council. The legislature consists of 302 members. The Reorganization Commission which recommended the council idea suggested a body of 11 members. In view of the fact that none of the members of the present Council has been re-elected to office, rumors are already heard of a movement to enlarge the Council. The Secretary and Research Director of the Council reports that "it is anticipated that impetus will be given to the movement to enlarge the Council. Experience may show that a Council of eleven members will be more effective." The majority leader of the house advises to "keep it small." Another member of the Council suggests "5 to 10 members."

Composition - The Council consists of four legislators, who are the chairmen



and first-named minority members of the judiciary committees of the senate and house, and the governor, who is an ex officio member. The few replies to the question as to the advisability of having laymen were in the negative. As to whether the governor ought to be a member, the Research Director says:

"The Governor is a member ex-officio of the Connecticut Council and at its organization meeting he was elected Chairman. There are arguments for and against the Governor, as head of the Executive Branch of the government, being a member of a Legislative Agency but this arrangement has worked satisfactorily in this State. The Reorganization Commission did not include the Governor in its proposed set-up of a Council."

The majority leader of the house and chairman of the judiciary and rules committees also favors the membership of the governor. He says: "A remarkable fact about ours is that all of our many votes have been unanimous. Governor has never once had to vote. We elected Governor Chairman although we need not have done so." Many of those questioned failed to reply because of the newness of the Council.

Method of Appointment - The statute itself specifies the officials who are to serve. The Research Director comments on the method of appointment as follows:

"The Chairmen and first-named minority members of the Judiciary Committees of the Senate and the House of Representatives, with the Governor, constitute the membership of the Council. It is alleged that this places the work of the Council entirely in the hands of lawyers. It would seem desirable to change the method of selection so as to include some outside the legal profession."

Nebraska:

Number - Nebraska's Council contains 15 members. The unicameral





legislature consists of 45 members. The questionnaires on the whole consider the size of the Council adequate for Nebraska.

Composition - There are neither lay nor ex officio members on the Nebraska Council. The 15 legislators include the speaker who is automatically a member.

Method of Appointment - Each congressional district is represented by 3 members who are nominated by the members residing therein and such nominations are ratified by a majority vote of the legislature.

The questionnaires indicate that there is general satisfaction with this system in Nebraska.

Illinois:

Number - Two ex officio members and 20 legislators. The legislature contains 204 members. Some of the questionnaires suggest a Council of from 15 to 25 members.

Composition - Any ten representatives and any ten senators may be chosen. They must, however, be in proportion to party membership in each house, but in no event can the majority party in either house have more than 2/3 of the members. The president of the senate and the speaker serve ex officio. There are no lay members.

All answers to the questionnaires opposed the inclusion of laymen. Several, however, favored the governor as an ex officio member.



Method of        The statute reads as follows:  
Appointment -

"There is hereby created a legislative council, which shall consist of ten Senators appointed by the President of the Senate upon the recommendation of the Executive Committee, and ten Representatives, appointed by the Speaker of the House; provided, however, that at each regular session after the 60th General Assembly the President of the Senate upon the recommendation of the Executive Committee, shall appoint only the number of Senators necessary to make the representation of the Senate ten Senators."

All answers favored the present set-up.

#### 4. Appropriation

Kansas:        \$10,000 a biennium for the Council, \$20,000 annually during the past biennium for the Research Department. There was substantial agreement in the questionnaires that the Council has not been handicapped financially. The Research Director reports that:

"The council appropriation has covered actual expense but the council is requesting some additional funds. It so happens that special sessions have eliminated some quarterly meetings. If the council had held all of the meetings contemplated, it would have required careful planning to make its funds last. That is, the council really needs more than \$10,000 for the biennium, particularly in order to permit additional sub-committee meetings. The research appropriation has been sufficient. The council is asking for increase of \$5,000 a year for that, however, since the work can be expanded rather indefinitely, having been kept strictly within the amount allocated in past years. That amount, however, has permitted very definite accomplishments."

When the Council was established in 1933 no appropriation was made for a research department. This body was not established until July 1934 following a grant of \$15,000 from the Spelman Fund. The Spelman Fund supported the research staff for three years (July 1934 to June 1937), giving it \$15,000 for each of the first two years and \$20,000 the third year. The state now provides for the



research staff. The Kansas statute allows Council members \$5.00 per day and expenses for their attendance at Council meetings.

Michigan: An annual appropriation of \$5,000 is provided for in the statute. However in 1936, 1937, 1938 and 1939 appropriations of \$4,000 yearly were granted. Provision is made for expenses of members, but there is not other stipend. The questionnaires are divided in opinion as to whether the Council has been handicapped by lack of funds and as to whether the members ought to receive compensation in addition to their expenses.

Virginia: The Virginia statute provides an annual appropriation of \$15,000 or so much thereof as may be necessary. The actual appropriation has been \$13,800 per year. Members are given \$10 per day in addition to expenses. There seems to be general satisfaction with the appropriation and the provision for individual payment.

Kentucky: The legislature originally appropriated \$10,000 for the Council. The members are paid \$10 a day and expenses during council sessions. An additional \$10,000 was made available for permanent research staff. The state also received a grant of \$12,000 from the Spelman Fund.

Connecticut: \$50,000 for the biennium. There is no compensation for members but expenses are provided for. The returns from the questionnaires reveal a difference of opinion on the



matter of compensation. The Secretary and Research Director writes:

"A draft of a bill included in the legislative program provides that members of the Council shall receive \$25.00 for each meeting attended in lieu of expenses. While this may simplify bookkeeping by substituting a fixed sum for actual expenses it has the appearance of supporting the principle of compensation for members. Membership on the Council should be deemed an honor and considered an opportunity to render distinct public service, and members should be willing to serve without compensation receiving only reimbursement for actual expenses."

Nebraska: \$15,000 is appropriated biennially. The Director of Research feels that this sum has limited the field of research. Members of the Council or of any ad interim committee of the Council are compensated for expenses. There are no stipends for services rendered.

Illinois: \$10,000 for the biennium. This appropriation has been exhausted, and has been supplemented by the governor from contingent funds. There is a possibility that a deficiency appropriation bill will be passed at the present session of the legislature. Answers to the questionnaire are divided as to whether the Council has been handicapped by lack of funds. The Research Bureau did not begin to function until June 1, 1932. Had this bureau functioned during the previous year the Council would undoubtedly have been cramped for funds, since the Research Director receives \$5,000 per year and the Assistant Director of Research \$2,760 per year. The Council has one stenographer. The salaries of the Director and Assistant Director alone total \$15,520 for the





biennium and the members of the Council are reimbursed for actual expenses incurred. It would seem, therefore, that \$10,000 for two years is much too small. Appropriation is made for the expenses of members, but not for any compensation. (Members of the Illinois legislature receive a salary of \$2,500 per year).

## 5. Duties

### Kansas:

The duties of the Kansas Council (which, roughly, serves as the pattern for the other state Councils) are as follows:

- (1) "To collect information concerning the government and general welfare of the state."
- (2) "To examine the effects of previously enacted statutes and recommend amendments thereto."
- (3) "To deal with important issues of public policy and questions of state-wide interest."
- (4) "To investigate and study the possibilities for consolidations in the state government, for elimination of all unnecessary activities ..." etc.
- (5) "To investigate and study the possibilities of reforming the system of local government with a view to simplifying the organization of government."
- (6) "To cooperate with the administration in devising means of enforcing the law and improving the effectiveness of administrative methods."
- (7) "To prepare a legislative program in the form of bills or otherwise, as in its opinion the welfare of the state may



require, to be presented at the next session of the legislature." (Statute)

One of the questions in the questionnaire asked whether the Council members act (in practice) as a steering committee in the legislature. The overwhelming majority of answers say they do not. The Research Director says:

"No, the council ceases to function when the legislature meets. It holds its last formal meeting in November and may authorize some committees to complete work during December. The only council committee in existence during the session is the committee on the research department for the purpose of supervising its work and acting as a buffer if members of the legislature make unduly heavy requests on that department.

Individual members of the council who return to the legislature, - and about 60% do return - are of course greatly interested in the bills and subjects which they have studied during the council meetings. These men may play a very important part in the handling of such measures. They will do so, however, not because they are council members, but because, as council members, they acquire a superior knowledge of the question, placing them in a strategic position as far as that subject is concerned."

Michigan:

The duties of the Michigan Council are as follows:

"The legislative council shall function during the interim between legislative sessions, and it shall be the duty of the council to (a) prepare a legislative program for submission to the next succeeding legislative session, (b) to accumulate and compile such information as the council may consider useful to members of the legislature, and (c) to furnish such information to members of the legislature. In preparing a legislative program, the council is authorized to appoint sub-committees and call upon members of the legislature to assist in such preparation. All committees and commissions authorized by the legislature to make special studies and prepare legislation shall report to the legislature through the legislative council and shall cooperate with the council at all times. The legislative council shall have power to examine into the costs of all state activities and shall recommend to the legislature such changes in the operation of the various departments, institutions, boards and commissions of the state government as will reduce governmental expense without impairing governmental efficiency." (Statute)



The Michigan Council does not act as a steering committee in the legislature.

Virginia:

The Virginia statute prescribes that:

"It shall be the duty of the council: (a) To make an investigation and study of any matter or question which may be referred to it by the General Assembly, and to submit a report containing its findings and recommendations to the Governor and to the members of the General Assembly at least thirty days prior to the next regular session of the General Assembly, or at such other time or times as the General Assembly shall direct; and,

(b) To make an investigation and study of any matter or question which may be referred to it by the Governor and to submit to the Governor a copy of its report containing its findings and recommendations at least thirty days prior to the next regular session of the General Assembly or at such other time or times as the Governor may request."

Unlike most Councils, it has no authority to submit a general program. The questionnaires reveal, however, that there appears to be a measure of sentiment in favor of having the Council submit a program. The Council members do not function as a steering committee.

Kentucky:

The duties of the Kentucky Council are:

"(a) to collect information concerning the government and general welfare of the State, examine the effects of previously enacted statutes and recommend amendments thereto, deal with important issues of public policy and questions of state-wide interest, and prepare a legislative program in the form of bills or otherwise, as in its opinion the welfare of the State may require, to be presented at the next session of the General Assembly; (b) to receive and consider, after the first Monday in January, 1940, the reports of the Auditor of Public Accounts and to report to the respective houses thereon, for the purpose of perfecting the contact of the General Assembly with the administration through the Auditor of Public Accounts and in order to insure that the Auditor's reports shall receive the attention they merit; and (c) to encourage and arrange conferences with officials of other States and of other units of government; carry forward the participation of this State as a member of the Council of State Governments, both regionally and nationally and formulate proposals for cooperation between this State and other States."



Connecticut: Connecticut provides as follows:

"The legislative council shall accumulate, compile, analyze, and furnish such information as it may consider useful to, or as may be requested by, the general assembly bearing upon any matters relating to existing or proposed legislation, or as may be determined by it upon its own initiative pertaining to important issues of public policy and questions of state-wide interest.

It shall prepare a legislative program in the form of bills or otherwise, as in its opinion the welfare of the state may require, to be presented at the next regular session of the general assembly.

It shall investigate and study the possibilities for consolidation of departments, commissions, boards and institutions in the state government, for the elimination of unnecessary activities and duplication in office personnel and equipment, for the coordination of activities, or for the purpose of increasing efficiency of service or effecting economies. It shall advise the governor on any matter within its jurisdiction which is submitted to it by the governor for its consideration."

"It shall make or shall have made under its supervision all studies and investigations submitted to it by the general assembly or either house thereof and shall submit its report and recommendations concerning the same to the general assembly. If, at any time, the general assembly shall create any special commission to study and inquire into any governmental problem and make recommendations for the solution of the same, the work of such special commission shall be performed under the general supervision of said legislative council, and the personnel, facilities and data of said council shall be made available to any such special commission. All commissions established to negotiate interstate compacts or agreements shall perform their duties under the general supervision of said council and shall submit to said council such reports of their activities as it may direct." (Statute)

As to the function of the Council as a steering committee,

the Secretary and Research Director replies as follows:

"It is probable that it was expected by the sponsors of the law establishing the Council that it would act as a steering committee but since no member of the present Council has been returned to office it cannot act in that capacity."





Nebraska:

The Nebraska statute provides that:

"It shall be the duty of the council (a) To collect information concerning the government and general welfare of the state. (b) To examine the effects of previously enacted statutes and recommend amendments thereto. (c) To deal with important issues of public policy and questions of state-wide interest. (d) To prepare a legislative program in the form of bills, or otherwise, as in its opinion the welfare of the state may require, to be presented at the next session of the legislature. The council may, if it be deemed advisable to facilitate the solution of any special problem, definite proposal or concrete issue before it, call to its assistance from the body of the legislature one or more members thereof outside of said council from time to time to serve on special committees of the council ad interim for special detailed legislative service."

"It shall be the duty of the council: (a) To investigate and study the possibilities for consolidations in state government for elimination of all unnecessary activities and of all duplication in office personnel and equipment, and of the coordination of departmental activities, or of methods increasing efficiency and effecting economies. (b) To investigate and study the possibilities of reforming the system of local government with a view to simplifying the organization of government. (c) To study the merit system as it relates to state and local government personnel. (d) To cooperate with the administration in devising means of enforcing the law and improving the effectiveness of administrative methods. (e) To study and inquire into the financial administration of the state government and the subdivisions thereof, the problems of taxation including assessment and collection of taxes and the distribution of the tax burden."

The Council does not act as a steering committee.

Illinois:

Statutory requirements:

"It shall be the duty of the Council to select information concerning the government and general welfare of the State, examine the effects of constitutional provisions and previously enacted statutes and recommend amendments thereto, consider important issues of public policy and questions of state-wide interest and to prepare such legislative program in the form of bills or otherwise, as in its opinion the welfare of the State may require, to be presented at the next session of the General Assembly."

The consensus of opinion on the part of Council members as reflected by questionnaires seems to be that the Council should not act as a steering committee. One questionnaire



returned after the Council's November meeting stated that it appeared, as a result of that meeting, that the Council would not assume the role of a steering committee.

#### 6. Aids To The Council

##### Kansas:

The Kansas Council has its own research staff. The statute also provides that "Each officer, board, commission or department of state government, or any local government, shall make such studies for the council as it may require and as can be made within the limits of its appropriation." Also, "... the said council may require the services of the legislative reference library ..."

There has been excellent cooperation between the Council and all of the state commissions and agencies. A number of questionnaires pointed out the desirability of additional research facilities. All stressed the value of the research department.

##### Michigan:

The Michigan Council has no research agency of its own. The Council may, however, call on any other state agency for aid. It may even call on members of the legislature not members of the Council. All committees and commissions entrusted by the legislature to make special studies and prepare legislation report to the legislature through the Council, and these investigatory bodies must cooperate with the Council at all times.

On the question whether the research facilities of the Council should be increased, the answers to the questionnaires are divided.



Virginia:

The Council does not have its own research agency. The statute designates the Director of the Division of Statutory Research and Drafting as secretary of the Council, and, subject to the approval of the governor, the Council is authorized to supplement the compensation of the director. The services of the research staff of the Division are made available to the Council, and the Council may assign additional persons to that staff.

The statute also gives the Council authority "to employ such persons and to engage the services of such research agencies as it may deem necessary and to fix their compensation, provided the expenses of the Council for all purposes shall not exceed the amount of the appropriation herein made. The Council may also appoint such committees as it shall deem necessary to assist it in investigating and studying matters referred to it."

A majority of those who have answered the questionnaire believe that the present research facilities are adequate. A State Planning Board was created at the last session of the general assembly, but how it will function is as yet uncertain.

Kentucky:

Kentucky has a research staff. The act further provides that "Each officer, board, commission or department of state government or any local government, shall make such studies for the Council as it may require and as can be made within the limits of its appropriation."



Connecticut: Connecticut has a research staff. Other assistance is provided for in the following statutory provisions:

"Said council may appoint, upon its own initiative or upon request of the general assembly, such advisory committees, consisting of members of the general assembly, officers of the state or citizens, as it may deem advisable, and may call upon other members of the general assembly to assist it. Each officer, board, commission or department of the state government shall make such studies for said council as it may require."

"It may require the services of the legislative reference department of the Connecticut State Library."

"Said council shall adopt rules governing its procedure and include there such rules and regulations as it shall deem advisable to provide for the attendance of members of the general assembly and the presentation of their views at sessions of the council on any matters which said council may be considering."

Nebraska: There is a Council research staff. The Council may also require the services of the legislative reference bureau and may request studies by other state officers and commissions.

Illinois: The Council has its own research staff, and may also require the services of the planning board, the legislative reference bureau and the state library. All officers, boards, commissions, etc., of the state and local government are required to make studies for the Council at the Council's request.

## 7. Power To Subpoena

Kansas: Has this power. The consensus of opinion among the replies to the questionnaire is that the effective operation of the Council does not require the right of subpoena. This power has never been used in Kansas.





Michigan: Has the power. The few answers received state that it is necessary.

Virginia: Does not have the power, nor do the answers indicate any felt necessity for such authority.

Kentucky: Has the power.

Connecticut: Has the power. The questionnaire replies favor the inclusion of this power. The Secretary and Research Director says: "It is desirable to include the power to subpoena witnesses and administer oaths for use in extreme circumstances. The normal operation of a council will not require its use. The Connecticut council has this power but it has not been exercised to date."

Nebraska: Has the power. All answers to the questionnaire consider it necessary.

Illinois: Does not have this power. Answers to the questionnaire are practically unanimous that the Illinois Council has not been handicapped to date as a result of the absence of this power.

### 8. The Report Of The Council

Kansas: The recommendations of the Council must be completed and made public at least 30 days prior to the session to which the recommendations are to be submitted. A large majority of the questionnaires state that this period is satisfactory.



The Director of Research writes:

"The Kansas session is short, approximately 45-60 legislative days. However, this has appeared to be sufficient time to permit the legislature to consider council proposals.

The formal report of the council must be presented to the members of the legislature at least 30 days before the session meets. However, it is not the formal report which is particularly significant but rather the numerous reports throughout the two years of quarterly meetings. On some matters, the legislature and all citizens of the state receive very full information more than a year in advance of the session."

Copies of Council recommendations are sent to each member of the legislature, elective state officers and to the state library.

Michigan:

There is no time limit in Michigan. The Council submits its legislative program to the "next succeeding legislative session." The statute also provides that the data compiled by the Council should be furnished to the legislators.

Virginia:

Must report 30 days prior to the next regular session of the general assembly, or at such other time as the governor or legislature may direct. If matter is referred by the general assembly, report is to be made to the governor and assembly; if matter is referred by governor, report is to be made to governor.

Kentucky:

The statute provides that

"The Council shall keep complete minutes of its meetings and shall make periodic reports to all members of the General Assembly, and keep said members fully informed of all matters which may come before the Council, the actions taken thereon, and the progress made in relation thereto.

The recommendations of the Council shall be completed and made public, preferably 60 days prior to any session of the General Assembly at which time such recommendations



shall be mailed to the post office address of each member of the General Assembly. At the same time a copy shall be filed with the Governor and with each elective State officer, and five copies shall be filed with the State Librarian and five with the Librarian of the University of Kentucky."

Connecticut: 30 day provision. Copies of recommendations to be sent to each member-elect, to each elective state officer and to the state library.

Nebraska: 30 day provision. Provision is also made for periodical reports. Recommendations are reported to members of the legislature, to each elective state officer and to the state library. Periodical reports to be made to members of legislature.

Illinois: Similar to Nebraska.

#### 9. Public Hearings

Kansas: There is no provision in the statute for public hearings. The act merely provides that "any member of the legislature shall have the right to attend any of the sessions of the council, ..."

However, the Council does allow individuals to appear before it if they desire, and the demand for public hearings has increased. The Research Director states that one of the sources for Council proposals is petitions and correspondence from citizens.

Illinois: The rules of the Council provide that

"All sessions of the Council shall be open but admission to the floor of the Senate Chamber (Council meets here) will be limited to members of the legislature, state



officers, Council employees and the press. Invitations or requests to address the Council or its committees will be limited to matters before the Council or its committees as to pending proposals then under consideration."

10. Interference With Governor

Kansas:

In an article written in 1936, Frederick H. Guild, Director of Research, stated that there had been no definite clash of interest between the governor and the Council, but that the governor's relation to the Council had not been fully determined. He pointed out that no governor would like the possibility of a Legislative Council leaving him without a program or with the choice of affirming a portion of the Council's program or else proposing a conflicting policy. The Council might prove a threat to the important position in legislative planning which the executive had assumed during the past twenty years. However, this encroachment had not occurred in Kansas partly because the Council has felt that it is under no urge to press a definite complete program. It has merely made certain that all essential materials for such a program have been prepared and are ready for legislative consideration. Dr. Guild said: "Probably no legislative council could long endure if its program constantly opposed the governor's."

In a later article Dr. Guild stated that Kansas governors have been skeptical of the quarterly appearance at the state capitol of representatives with full power to open any subject for discussion. However, there has been no reason in Kansas why a governor should oppose the Council. A formal





relationship is maintained through messages from the governor, one at the opening of each new Council and others recommending special topics at any time. Close contact is maintained through conferences of the governor with chairmen of committees or individual members. Another contact comes through the research staff which is instructed to work with the governor on his legislative program. The Council enables the governor to keep in closer touch with the probable legislative program. It may be as beneficial to the governor as to the legislature. He is free to make his own choices and may accept or reject the Council's proposals as he may those of the legislature itself.

The Topeka Daily Capital (May 16, 1935) reports that in his first message to the Council at the Council's first meeting, former Governor Landon expressed his desire and willingness to cooperate. His message and proposals were well received by the Council, and the two worked in harmony. A recent communication from Dr. Guild relative to the existing relations between the governor and the Council reads:

"It (the Council) has greatly facilitated his work in preparing his messages, since the council provides the factual background for choices of action covering most of the important items in the legislative program. It makes it rather simple for the governor to make his own selection therefrom."

"There has been no noticeable difference in the governor's leadership in his relations with the legislature. It is possible that the legislature may feel capable of more independent judgment and less likely to follow the governor's recommendations blindly. On the other hand, the legislature has basic background for its own judgment in the form of council reports and is consequently very much better informed as to the merits of the governor's program."



"In general there has been no clash between the governor and the council. You must bear in mind that the Kansas council is completely under the control of the legislature, this being in contrast to the Virginia, Kentucky, and Connecticut councils. In fact I think throughout your questionnaire it would be necessary to keep this distinction thoroughly in mind, since the answers will depend largely upon that original legal relationship. The Kansas council does not attempt to take leadership away from the governor. It merely tries to see that the legislature itself is thoroughly informed. In so doing it is performing a service fully as valuable to the governor as to the legislature."

Replies from legislators sampled by questionnaire indicate that in the main the Council has not interfered with the governor. A small minority thought that there was an interference. The Governor did not reply.

Michigan: There was disagreement in the questionnaires on the question of whether the council had influenced the governor's message.

Virginia: No interference.

Kentucky: Governor Chandler considered the Council a political device.

Connecticut: The Secretary and Research Director of the Council says: "In view of the fact that the council has just completed its first report since its creation, it is impossible to answer this question."

The majority leader of the house and chairman of the judiciary and rules committees replies that there is no interference.

Illinois: The governor has not as yet availed himself of the privilege of sending messages to the Council. The Council has attempted to cooperate with the governor at all times. Governor Lister has assured the Council of his support and wholehearted cooperation.



# 11. Conflict With Other Agencies

Kansas: The questionnaires indicate on the whole that there is no conflict. The Research Director states that

"There is no particular conflict between council and other existing agencies. If an existing agency can and will supply the information in the form desired, the council merely sees to it that such information is presented in time to be of advantage to the legislature. The council does not seek to duplicate the work of other agencies.

For example, the judicial council, composed of judges, lawyers, and chairman of the House and Senate judiciary committees, has a definite field. They have drafted a new probate code for submission to the 1939 legislature. The legislative council has felt free to raise certain questions concerning features of that code but has refused to take the matter out of the hands of the judicial council."

Michigan: Five of the six replies on this point state that there is no conflict. The other asserts that there is.

Virginia: Virginia still makes extensive use of legislative commissions, and the Director of the Division of Statutory Research and Drafting, who is secretary to the Council and whose research staff serves the Council, acts as secretary for each of them.

Since the Council deals only with specific matters, there has been little serious conflict. The Richmond News Leader (Feb. 8, 1939) predicts that the Council will some day supplant the special commissions.

Connecticut: The Research Director says that all departments and agencies are given wholehearted support.

Nebraska: The questionnaires indicate "Fine cooperation."

Illinois: Answers to questionnaires are unanimous in stating that there



has been no conflict with other agencies. Although, as in other states, the various commissions, boards, etc., may be required by the Council to make studies, the demands made by the Council on these other agencies do not appear to have been so burdensome as to cause friction.

12. Effect On Number Of Bills Introduced Into Legislature

Kansas: Exact information on this question is most difficult to obtain. Senator Horton of Nebraska in a speech advocating a legislative council for that state said that the Kansas legislature was able to adjourn a month earlier at its last session (presumably the 1937 session) with a reduction in the number of bills introduced from 1,545 to 800. (These figures, however, do not correspond with the figures furnished us by the Kansas Assistant Revisor of Statutes. (See table below.)

An article appearing in the Topeka State Journal (Feb. 4, 1937) and written during the 1937 session says that in no session since 1909 have so few bills been introduced in spite of the fact that there was a strong inclination to introduce many bills. It was asserted that the proposals of the Legislative Council cut them out.

However, the consensus of opinion in the questionnaires is that the number of bills has not been reduced.

The following figures were furnished by Mr. Fred. E. Gulick, Assistant Revisor of Statutes:





Table Showing Number of Bills Introduced and Passed by Kansas  
Legislature During Period 1917 to 1938\*

Legislative Session	Number of House Bills Introduced	Number of Senate Bills Introduced	Total Number of Bills Introduced	Total Number of Bills Passed
1917	906	723	1629	336
1919	752	593	1345	316
1921	732	668	1400	297
1923	672	587	1259	244
1925	579	542	1121	289
1927	695	463	1158	341
1929	617	418	1035	297
1931	687	410	1097	318
1933	812	629	1441	332
1933 Special Session	254**	191**	445**	127**
1935	646	456	1102	328
1937	634	531	1165	387
1938 Special Session	141**	119**	260**	82**
Grand Totals	7732**	6020**	13,752**	3485**
Average for Eleven Regular Sessions	703**	547**	1250**	317**

\* Special Sessions which considered very few bills not included herein.

\*\* Special Session figures not included in totals or averages.



Dr. Guild, the Research Director, states as his opinion that

"Experienced members of the legislature have frequently expressed it as their opinion that the council has reduced the number of bills, particularly keeping out many of the former bills of a freak type. However, it would be very difficult to prove this by a comparison of the total number of bills introduced in the various sessions. What does seem particularly significant is the reduction in the number of bills introduced in the last three days before the dead line for introduction of member bills; which comes about the middle of February. Since the council has covered the general program pretty thoroughly, there seems to be less tendency on the part of members to throw in hastily drafted bills merely on the supposition that they might want to have them in in case certain aspects of the program were not covered."

Michigan: Most of the replies to the questionnaire report that there is no effect. One legislator (a Council member) stated that the number of major bills has been reduced.

Virginia: Questionnaire opinion indicates that the Council has reduced the number of bills only on important subjects.

Illinois: The Connecticut, Nebraska and Illinois Councils are now submitting their first report; consequently the effect of the Council on bills introduced cannot as yet be gauged in these states. However, the Assistant Director of Research of Illinois communicates the following:

"Our theory here is that the research staff will prepare fact-finding reports on topics assigned to it. The Council will digest these reports, make whatever political (or partisan, if you prefer) decisions are necessary, and thus pave the way for action by the General Assembly. The Council may not even decide to introduce bills in the General Assembly but, at any rate, the research reports together with any Council discussion should bring about an earlier introduction of bills on these subjects when the General Assembly meets (thus helping to reduce the last minute rush). We are also hopeful that our reports will tend to improve the level of debate in the General Assembly, by supplying facts that can be used to fortify arguments."



In another letter he states:

"We do not feel that the existence of the Council will reduce the number of bills introduced in the General Assembly, nor that it will necessarily improve the quality of a few important bills of a general nature. The bulk of the bills introduced are drafted by our Legislative Reference Bureau, including bills submitted by the Council. The chief service of the Council will probably be the gathering of factual information and the submission of bills that, on the basis of these facts, seem desirable. That is, there may actually be more bills introduced as a result of the existence of the Council, but many of these bills will be designed to bring about a discussion of points that might otherwise be ignored or cast aside with little consideration. The Council, I might say, will probably submit bills with a recommendation merely for their consideration, and not with a recommendation for passage. This is designed to avoid antagonism on the part of those members of the General Assembly who do not serve on the Council. Furthermore, bills will be introduced by individual members, and not by the Council itself."

13. Effect On Legislative Jam

Kansas: The consensus of opinion revealed in the questionnaires is that the legislative jam at the close of the session has been reduced, at least as far as major bills are concerned. However, the following represents the opinion of Dr. Guild, the Research Director:

"We cannot see that the existence of the council has as yet changed the long established habits of the legislature. Many matters are still left till the end of the session and the old jam is still visible. However, the anxiety and uncertainty seems to be decreasing. In the past, the old jam meant that many important measures received rather hasty consideration. The feeling here is that the advance study on all important matters guarantees careful preliminary consideration, even in advance of the session, despite the fact that many of the bills still do not come down for final vote until the last three or four days of the session."

Michigan: The overwhelming opinion is that there is no effect on the jam.

Virginia: Probably very little effect. Opinion varies.

Illinois: See above, under 12 - Effect On Number of Bills Introduced.



14. Effect On Quality Of Legislation

Kansas: The questionnaires were 17 to 1 to the effect that the quality of legislation proposed had been improved. An article in Business Week (Dec. 4, 1937) states that "Because the Council has time to deliberate on important questions of law, the bills it has approved are, according to practicing lawyers and business men, far sounder and better drafted than the usual stuff." Dr. Guild believes that the Council working with the research department serves to assimilate and translate fundamental back-ground material and sifts out the most important issues for discussion by the legislature. The increased use of technical advice through the research department and the increased knowledge on legislative problems as a result of the facts presented by the research department and the quarterly meetings of the Council, cannot help but improve the quality of legislation. In his questionnaire he says:

"Editorial opinion seems to be that the quality of legislation proposed has been improved. The general comment has been to the effect that the various propositions are much better understood before the session meets and that in consequence there have been fewer attempts to introduce unwise bills in those fields covered by the report. Whether or not it has improved the quality of legislation enacted may be a matter of opinion. Here again we have editorial comments to the effect that there has been definite improvement. The technique of applying a bill as though it were a law, several months in advance of a meeting of a legislature, has meant that possible difficulties in the operation of a law have been discovered before the proposal was actually under consideration by the legislature, instead of after the law was passed and the legislature had adjourned. We have a few interesting illustrations of that nature. Here again, however, I believe the matter is largely one of opinions and the opinion is favorable."

Michigan: Opinion divided.





Virginia: Questionnaires reveal a unanimous opinion that the Council has improved the quality of legislation.

15. Success Of Council Bills In Legislature

Kansas: The Kansas Research Department has compiled figures showing the percentage of Council recommendations enacted into law, but as Dr. Guild has pointed out, "Neither the council nor the legislature judges its results by the number of council bills enacted. Some of the best work the council has done has been on bills which failed to pass in the first legislature to which they were submitted. They did pass in modified form in the next legislature. This is considered a gain of two full years, since major matters of this kind rarely are worked out in less than three legislative sessions." The figures showing legislative adoption of Council bills are, nevertheless, interesting.

MEMORANDUM: Research Department, Kansas Legislative Council  
Nov. 17, 1938

RE: Action on Council Bills.

	<u>No. Bills Introduced</u>	<u>Number Became Law</u>	<u>Per Cent</u>
<u>Special Session 1933</u>			
House	254	64	25.2
Senate	191	58	30.3
Council	24	15	62.5
<u>Regular Session 1935</u>			
House	646	197	30.5
Senate	456	122	26.7
Council	19	5	26.3
<u>Regular Session 1937</u>			
House	634	247	38.9
Senate	531	145	27.3
Council	8	7*	87.5

\*Bill establishing old-age assistance varies with law as passed but is substantially the same.



There is an apparent discrepancy between these figures and the data submitted by Gulick; however it is questionable whether this discrepancy is substantial.

In 1935, 53% of the Council bills passed at least one house. One reason why a greater percentage of the Council's program was not adopted was because this regular session postponed action on all measures requiring additional appropriation until the special session which they were informed would be necessary to consider the federal program. The legislature wished to meet the general financial program at that time. The major items in the Council's program dealt with financial matters. (Guild, 29 Am. Pol. Sci. Rev. 639).

Virginia: Thirteen out of 20 recommended bills were passed in 1936. A large majority of 16 recommended bills were passed in 1938.

Kentucky: The Council at its first meeting in December, 1936 prepared a program for a special session of the legislature. Eleven measures were drafted. All were adopted by the legislature.

#### 16. Legislative Opinion

Kansas: The questionnaires reveal that when the Council idea was originally proposed what objection there was came from the legislature. The governor was not opposed; nor was there any opposition from private groups.

A bill providing for the creation of a standing interim committee on taxation had been introduced earlier in the session, and since the proposed Council would take over the functions of this committee, the proponents of this bill were reluctant to yield and remained hostile for several years. Many



who were dissatisfied with commissions objected on the assumption that another commission was being created. A school code commission had been authorized by the legislature in 1927, a tax code commission in 1929 and a public welfare commission in 1931. Their findings and recommendations had been largely ignored. The legislature was skeptical during the first several years of the life of the Council. In fact in the 1935 session several bills were introduced calling for the repeal of the body. One managed to reach the floor of the senate, but was defeated by a vote of 20-14. A last minute attempt in the house to eliminate the Council's appropriation met with no great response. The prevailing sentiment was that the Council, through its research staff, had offered something of substance, that there had not as yet been any opportunity for a genuine testing of the general value of the Council idea, and therefore the experiment should be continued.

The questionnaires reveal a distinctly favorable attitude toward the Council now. It had steadily grown in prestige. Business Week (Dec. 4, 1937) states that following the first meeting of the Council, the legislature greeted with sarcastic disdain and a chorus of nays the bills which emanated from the Council; but that now the Council is favorably regarded by both parties.

Michigan: In Michigan neeger questionnaire returns seem to indicate that originally the legislature looked upon the Council with favor, but that at present there is opposition.

Virginia: The bill establishing the Council passed the lower house by an



overwhelming vote, and passed the senate unanimously. Answers to the questionnaires show that present legislative opinion is distinctly favorable. Those introducing legislation on major subjects show considerable regard for Council recommendations.

Nebraska: The results of the questionnaire indicate that the original favorable opinion of the legislature still exists.

Illinois: Original opposition to the Council came from the legislature, where it was necessary to overcome apathy and skepticism. Some legislators feared that the Council would "become a rules committee -- as in Congress." Other opposition was the outcome of individual jealousies. Since the Council is now making its first report, it is as yet too early to gauge present legislative opinion.

17. Public Opinion And Newspaper Comment

Kansas: Apparently the public regards the Council favorably. Dr. Guild writes that it has grown steadily in prestige, judging from the newspaper editorials, news releases throughout the state and the large number of letters received by the Council commending its work. There is a wider recognition of the importance of the advance consideration by the Council of legislative proposals. More than one hundred study groups of citizens were formed to study the social security program. The questionnaires indicate that public opinion is becoming distinctly more favorable each year. When the idea was discussed in the legislature the Topoka Daily Capital (Mar. 1, 1933) supported it editorially. During the Council's first session this paper carried full accounts of its proceedings





with editorials. The Kansas City Times (Mar. 24, 1937) stated editorially that "a saving feature of the leaderless deliberation [of the legislature] has been the research department acting under the legislative council." The Council meetings are still reported fully in the press.

Michigan: The returns of the few Michigan legislators who answered the questionnaire indicate that public opinion in that state is opposed to the Council. Very little information could be obtained from Michigan. An examination of the daily issues of the Detroit Free Press, for example, for three full years and a fair sampling of this paper for other years revealed only scanty material.

Virginia: The questionnaires state that public opinion in Virginia is very favorable. The Richmond News Leader of Feb. 8, 1938 says:

"With Governor Price and the General Assembly anxious to save money by further simplifying government, the Advisory Legislative Council probably will be given a broad new field of usefulness. Established primarily as an agency to assist the executive department in translating policy into prospective legislation, the Council has developed into a clearing house for numerous studies. Its work during the past two years has been invaluable.

"Eventually this central Council of legislators, with its committees to which citizens in all walks of life are drafted, may supplant the special commissions that once were named to prepare the more complicated bills. If necessary, the Council can be enlarged and can be entrusted with virtually all matters which must be reviewed between sessions of the General Assembly. Such an arrangement might, in itself, be a measure of simplification and economy."

Nebraska: The consensus of the questionnaire answers is that public opinion is favorable.



Illinois:

At the time the bill creating the Council was before the legislature, public opinion was not crystallized on the subject. Apathy, stated Senator Smith, was the chief barrier to overcome. The Chamber of Commerce gave some support as did the Legislative Voters League. An examination of several of the Chicago and Springfield newspapers of the dates immediately prior to and following the passage of the Council bill would seem to indicate that the Council idea created no great stir in the state. For example, The Springfield State Register made no mention of the bill on these dates. The Chicago Sunday Tribune of July 4, 1937 carried a statement by Governor Horner as to the important bills passed at the 60th General Assembly. The bill providing for the Legislative Council was not mentioned by the Governor. In an article in the Chicago Daily Tribune, July 2, 1937, quoting leaders of the legislature on what they thought of the legislative action of the 60th General Assembly, only one mentioned the bill creating the Council, although they listed what they considered the important measures passed. The only person who mentioned the Council bill was Senator Smith, its sponsor. Representative B. S. Adamowski (who was later made chairman of the Council on the resignation of Senator Smith from that position) did not list the Council bill as an important act of the 60th General Assembly.

The answers to the questionnaires seem to indicate that such public opinion as exists on the subject of the Council, today, is favorable. Senator Smith states that public opinion relative to the Council is "dormant in general," but "much alive"



in a few "spots." The press has not been hostile. Whatever comment is given to the Council idea is favorable.

18. General Remarks:

Kansas:

One of the chief functions of the Council is to serve as an intermediary between the legislature and the research department. Frequently antagonism arises when experts are brought in, and neither the legislators nor the experts can see the others' point of view. As a result, all too frequently in the past the advice of the expert has been lacking in government. Now in Kansas it is being used effectively. The experts in the research department carry on their work under the guidance of the Council, and the results of their work are presented to the legislature through the medium of the Council. As a result the research is readily accepted. The Council members assimilate and translate the fundamental background material to the rest of the legislature. There are definite indications that the Council members who have assimilated the material over a series of quarterly meetings serve a valuable function in clarifying the issues and in keeping discussions on a correct factual basis in regular committees and on the floor. Most of the legislators who responded to the questionnaire insisted that the Research Department's activities were the most important aspect of the Council's functions. Between Council meetings, the members frequently discuss various proposals with their constituents and obtain their reactions. These proposals may also be discussed with legislators who are not Council members, but who are informed of the Council's proceedings through the research studies and



other reports which are mailed to them. Thus the Council helps to maintain a continuous interest in legislation, aids in securing a better informed legislature and electorate, and helps to crystallize opinion on important problems although this opinion may not coincide with that of the Council.

Michigan: In Michigan, the Council has failed of its purpose. Under Governor Fitzgerald there was no cooperation between the Council and the executive. Only three of the nine members of the first Council were returned to office at the election in 1934, which situation gave rise to the Governor's characterization of it as a "lame duck" organization. There was a decided disagreement over a program. Fitzgerald said he would ignore it and threatened to propose its abolition.

The fate of the Council is uncertain.

Virginia: A peculiarity in the Virginia set-up is the fact that the Council is appointed by and holds office at the pleasure of the governor, but there is no dissatisfaction with this arrangement. The Council has served its purpose quite adequately. The elimination of special commissions, however, is not taking place as rapidly as some had anticipated.

Kentucky: Little information could be obtained from Kentucky. Only 2 questionnaires out of 40 were returned.

Connecticut: This Council was set up in 1937, and, consequently, an evaluation of its success would be premature at this time. It has recently issued a comprehensive report of its activities and recommendations. It has a very small Council, and as a result





of the fact that none of its members were returned to the legislature, it would not be surprising to see a demand for organizational reforms.

Nebraska: The Council in this state is also new. However, the general tenor of the answers received is highly optimistic, and interest in the Council is high.

Illinois: Here again it is too early to appraise the Council with any degree of assurance. The Council has been working hard and is receiving favorable publicity as a result. Apparently men were appointed to the Council who were interested in its success. One difficulty is apparent, however, and it is a difficulty which undoubtedly is not peculiar to Illinois. That difficulty is explained by the following quotation:

"Experience elsewhere indicates that the Legislative Council has one structural weakness which is difficult to safeguard. Perhaps it cannot be safeguarded legislatively, though it can be lessened by such voluntary action as the chairman is now privileged to illustrate. The weakness arises from political overturns. If a legislature receives recommendations from a Council composed of a large number of members promoted or demoted from membership in the legislature itself, the recommendations are likely to raise eyebrows rather than to help settle issues. So far, fortunately, the overturns in our membership are few but they are officially dramatic. Neither the present chairman nor the present secretary will sit in the session of the Assembly to which this Council reports." (Statement of Senator Smith)



### PART III

#### The Situation in Maryland

In Maryland, a plank in the 1938 platform of the Democratic party supported the idea. Governor Herbert R. O'Connor urged the adoption of a legislative council during his campaign, and recommended the idea to the legislature in his inaugural address. The Committee on the Structure of the Maryland State Government, headed by President Isaiah Bowman of the Johns Hopkins University, has endorsed the council in its report to the Governor-elect; and the Junior Association of Commerce and the Junior Bar Association are behind the movement, a committee of the former organization having investigated the possibilities of this agency over a period of years. In 1936 and again in 1937 Senator Raymond E. Kennedy of the fifth legislative district of Baltimore introduced bills in the legislature advocating the council.

Apropos the advantage of the council to legislatures with large numbers of members without previous legislative experience, some indication of the appropriateness of a legislative council for Maryland may be gleaned from the following table:



Table Showing Number Of Members Of The Maryland Legislature

Who Serve Without Previous Legislative Experience

Legislatures 1922-1924 to 1939-1943

Legislature	Senate			House			Whole Legislature		
	New Mem- bers	Old Mem- bers	Percent of New Members	New Mem- bers	Old Mem- bers	Percent of New Members	New Mem- bers	Old Mem- bers	Percent of New Members
<u>1939-1943:</u>									
Baltimore City,	3	3	50	27	9	75	30	12	71
Counties,	7	16	30	54	30	64	61	46	57
Totals,	10	19	34	81	39	68	91	58	61
<u>1935-1939:</u>									
Baltimore City,	3	3	50	27	9	75	30	12	71
Counties,	7	16	30	65	19	77	72	35	67
Totals,	10	19	34	92	28	77	102	47	68
<u>1931-1935:</u>									
Baltimore City,	3	3	50	24	12	67	27	15	64
Counties,	9	14	39	55	28	66	64	42	60
Totals,	12	17	41	79	40	66	91	57	61
<u>1927-1931:</u>									
Baltimore City,	3	3	50	25	11	69	28	14	67
Counties,	12	11	52	53	29	65	65	40	62
Totals,	15	14	52	78	40	66	93	54	63
<u>1924-1927:</u>									
Baltimore City,	3	3	50	32	4	89 <sup>2</sup>	35	7	83
Counties,	10	13	43	62	20	76	72	33	69
Totals,	13	16	45	94	24	80	107	40	73
<u>1922-1924:</u>									
Baltimore City,	1	3	25	15	9	63	16	12	57
Counties,	5	18	22	56	26	68	61	44	58
Totals,	6	21	22	71	35	67	77	56	58

1. The percentage of "new" members was determined each time by an examination of the membership of only six previous legislatures (not legislative sessions) in order to see whether each legislator under examination had served in any of these previous legislatures.

2. This figure is high because of the addition of two legislative districts to Baltimore City, necessitating the election of twelve additional members.



Thus, for the past eighteen years, the number of inexperienced members serving in the house has never been lower than two-thirds of the total membership. In several instances the turnover has been even higher. In the senate the proportion of new men has been lower than that in the house, but the percentage is still substantial. The percentage of inexperienced legislators in the entire legislature has ranged from fifty-eight percent to seventy-three percent.

In Maryland, aside from the research of organizations like the Planning Commission, the bulk of ad interim investigative studies for the use of the general assembly is performed by special commissions (composed, in the main, of laymen) created by joint resolution of the legislature. In many instances, however, these commissions have failed to report.





INVESTIGATIVE & STUDY COMMISSIONS CREATED UNDER  
JOINT RESOLUTIONS OF THE MARYLAND LEGIS-  
LATURE - 1931 - 1937<sup>1</sup>

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<u>NAME OF COMMISSION</u>	<u>DATE SUPPOSED TO REPORT</u>	<u>REPORTED</u>
<u>1931 Legislature</u>		
Almsouse . . . . .		Yes
Blue Sky Laws . . . . .	Jan. 15, 1933	No
Chesapeake Bay Bridge . . . . .	Promptly	Yes
Aged & Indigent Deaf . . . . .	Dec. 15, 1932	No
Land Laws - (Continued) . . . . .	Dec. 1, 1932 - Gen'l Assem. 1933	Yes
Motor Vehicles Accidents . . . . .	Jan. 15, 1933	No
Taxes on Public Motor Veh. . . . .	General Assembly 1933	No
Taxation . . . . .	General Assembly 1933	Yes
<u>1933 Legislature</u>		
Land Laws - (Continued) . . . . .	General Assembly 1935	Yes
<u>1935 Legislature</u>		
Patapsco River Bridge . . . . .	As early as possible	No
Corporation Laws . . . . .	Dec. 31, 1936	No
Interstate Facts . . . . .	- - -	No
Land Laws (Continued) . . . . .	- - -	Yes
Occupational Diseases . . . . .	General Assembly 1937	Yes
Prison Labor . . . . .	Promptly	Yes
<u>1937 Legislature</u>		
Land Laws - (Continued) . . . . .	- - -	Yes
Relief & Aid to Needy . . . . .	Next General Assembly	No
County Govt. & Municipal Corps. . . . .	Jan. 15, 1939	No
Auto. Accidents . . . . .	- - -	Yes
Unpaid Wages . . . . .	Nov. 15, 1938	Yes (late)
Rules & Reg. re-Alcoholic Beverages . . . . .	Jan. 15, 1939	Yes

1. This list is not all inclusive. Only those commissions have been selected which were intrusted with subjects considered fit for investigation by a legislative council.



In view of the fact that these and purely gubernatorial commissions usually operate without an appropriation and without a research staff, their disadvantages when compared with the legislative council are apparent. A recent study in The Use of Special Committees and Commissions by the California Legislature issued by the California Bureau of Public Administration points out the accomplishments and failures of such devices in that state, and recommends the adoption of a legislative council. However these commissions need not necessarily be abolished under the council system. They could continue to function in connection with subcommittees of the council, but their activities could be correlated by that agency. In fact, they are still used in several states which have established councils.



## PART IV

### Recommendations For Maryland

(Only those recommendations dealing with the major aspects of the Council set-up are listed below).

#### 1. Number and Composition.

- (1) The Council should be composed entirely of legislators. Qualified laymen and administrative officials, if needed, should be invited by the Council to sit on sub-committees.
- (2) The Director of Research should act as secretary to the Council.
- (3) Composition - Plan I.

The Council to consist of 20 to 25 members, each house having equal or approximately equal representation. The president of the senate, the chairman of the finance committee (majority floor leader,) the chairman of the judiciary committee and minority floor leader of the senate will be elected automatically. Likewise in the house, the speaker, the chairman of the ways and means committee (the majority floor leader), the chairman of the judiciary committee and the minority floor leader will be ex officio members. The remaining members in each house will be selected by the president and speaker from their respective houses. These selections are to be ratified by a majority vote in each house. In making their selections the president and the speaker are to be guided by party proportions in the legislature and geographical considerations.

#### (4) Composition - Plan II.

The Council to consist of 25 members. The president of the senate, the majority and minority floor leaders of the senate, the speaker and majority and minority floor leaders in the house will serve



automatically. The remaining 19 will be selected as follows:

House membership from the counties: The house delegates representing the counties in each judicial circuit will select 1 of their number to serve on the Council. That is, for each judicial circuit in the counties there will be 1 house representative selected by the delegations representing that circuit. Total 7.

House membership from Baltimore City: The Baltimore City house delegation will select 3 of their number. Total 3.

Senate membership from the counties: The county senators in each judicial circuit will select 1 of their number to serve. In other words, each judicial circuit will be represented by 1 senator. Total 7.

Senate membership from Baltimore City: The 6 Baltimore senators will select 2 of their number to represent Baltimore City. Total 2.

If any of the local delegations fail to make a selection by a certain date, the speaker or the president of the senate, as the case may be, shall be authorized to make the selection.

Plan II is to be preferred to Plan I in that jealousies and disappointments on the part of non-members may be obviated to a large extent if the local delegations do their own choosing. Plan II also insures geographical representation.

The Council should not be made too small. A Council of 25 should not prove to be an unwieldy body if the bulk of the Council's work is done, as it should be, by sub-committees. In view of the large turnover in the Maryland legislature (see p. 56), we need a large Council so as to insure a sufficient number of Council members who will be returned to the legislature to explain and support the





Council's recommendations. "Lane duck" Councils must be avoided if the Council is to enjoy the confidence of the legislature and the public. This problem does not arise in the case of a Council functioning between the first and second sessions of the legislature. For example, all Council members appointed after the first session of the 1939 legislature and functioning until the 1941 session will sit in the latter session and carry on the Council program. The problem of a "lane duck" Council does arise, however, in the case of those members serving from 1941 until the 1943 legislature, which convenes after an election.

It has been suggested that a Council of 14 members be created under a plan similar, in other respects, to Plan I. However, keeping in mind the possibilities of a "lane duck" Council, the prospects of a Council of this size are none too bright. Reference has already been made to the excessive turnover in the legislature. In addition, the continuity of tenure even of the legislative leaders, who would constitute 8 of the 14 members, is not particularly promising. An analysis of the tenure of the aforementioned legislative leaders serving between the second session and the first session of a new legislature reveals that in a large percentage of cases, these officials do not return to office. The table below shows the number and percentage of these leaders, over a period of twenty years, who have returned to office upon the convening of a new legislature. The dates listed are the dates of those sessions in which they held their posts of leadership. The tabulation of "yes" and "no" indicate whether or not they returned to the next legislature.



Table Showing Legislative Leaders Returned To The Next Legislature

1918-1937

Senate

	1918	1920	1922	1924	1929	1933	1937	Totals		
								Yes	No	Percent Return
Legislative Official										
President	No	Yes	No	Yes	Yes	No	No	3	4	43
Majority Floor Leader	No	Yes	Yes	Yes	Yes	Yes	No	5	2	71
Minority Floor Leader	Yes	No	No	No	No	No	No	1	6	14
Chairman of the Judicial Proceedings Committee	Yes	Yes	Yes	No	Yes	No	No	4	3	57
Percentage of Return	50	75	50	50	75	25	0	13	15	46

House

	1918	1920	1922	1924	1929	1933	1937	Totals		
								Yes	No	Percent Return
Legislative Official										
Speaker	No	Yes*	No	Yes	No	No	Yes*	3	4	43
Majority Floor Leader	No	No	Yes*	No	Yes	No	No	2	5	29
Minority Floor Leader	No	No	No	No	No	No	No	0	7	0
Chairman of the Committee on Judiciary	No	No	No	Yes	Yes	Yes*	No	3	4	43
Percentage of Return	0	25	25	50	50	25	25	8	20	29

\*To Senate



This being the situation in the case of the 8 legislative leaders, we may expect even a greater percentage of non-returned members among the remaining 6. Those that return will be divided between the two houses so that only a few Council members will be present in each house to carry the burden of explaining and guiding the Council's recommendations through to passage. This is a responsibility that ought to be shared by several more men in each body. A larger Council, therefore, is required.

2. Tenure On The Council.

In view of the fact that we have biennial session in which legislative leaders are newly elected (and occasionally changes do occur in the second session) the statute ought to specify whether Council members are to serve for four years or two years.

3. Research Facilities.

(1) The Legislative Reference Bureau should be expanded so as to constitute the research staff. Competent research assistants will necessitate adequate compensation.

(2) Other state agencies should make such studies as the Council may require.

(3) Interim legislative and gubernatorial commissions need not be done away with. Special situations may demand special commissions. However legislative commissions should report through the Council. Purely gubernatorial commissions should report to the governor.

4. Position of the Governor.

The governor should be authorized to appear before the Council either in person or through a representative. He should also be



authorized to send messages to the Council recommending subjects for investigation.

5. Duties.

The duties outlined in the Kansas statute seem adequate. (see p. 69). Two additions should be made. The Council should be authorized to examine the effects not only of "previously enacted statutes" but also of the common law and of constitutional provisions as well. Second, the Council should be charged with the investigation of any subject submitted to it by the legislature.

6. Testimony.

- (1) The Council should have the right to issue subpoenas.
- (2) Legislators and interested citizens should be privileged to appear before the Council subject to such regulations as the Council may adopt.

7. Compensation.

Members should be reimbursed for expenses incurred while attending Council sessions. Adequate per diem compensation should also be allowed.

8. Reports Of The Council.

The Council's final recommendations and reports should be in the hands of legislators and every elected state official not later than thirty days previous to the convening of the legislature. Periodic reports of Council activities should also be mailed to members of the legislature.

10. Procedure Of The Council.

The rules of Council procedure should be left to the Council.





PART V

Appendices

A. Types of Studies Made By Legislative Councils

Kansas

1. Gas Tax Exemptions in Kansas
2. Field Bindweed in Kansas
3. Potential Sources of Additional Revenue from Taxation
4. Soil Erosion
5. State Aid to Municipal Subdivisions
6. Homestead Tax Exemption
7. Loan Sharks
8. Motor Vehicle Regulation
9. Government Costs
10. Population of State Institutions
11. School Finances
12. Expediting Legislative Procedure
13. Sales Tax
14. Social Security
15. Community Sales
16. The Operation of the Kansas Habitual Criminal Law

The Kansas Council has submitted research studies covering some fifty subjects. This material is also made available for use by other states.

Virginia

1. Alcoholic Beverage Control
2. Automobile Accidents in Virginia
3. Banks and Banking in Virginia
4. Criminal Procedure in Virginia
5. Probation and Parole



6. Unemployment Compensation
7. Compulsory Motor Vehicle Liability Insurance
8. Motor Vehicle Registration and License Fees
9. Tax on Motor Vehicle Fuels
10. Old Age Assistance to State Employees
11. Compensation and Retirement of Judges
12. Social Security Program for Virginia
13. Expedition of Work of Supreme Court of Appeals
14. Soil Erosion and Conservation of Soil Resources

#### Connecticut

1. Resources and Trends (includes an inventory of the physical and economic resources of the state and a study of economic conditions in eastern Connecticut).
2. Study of Public and Private Recreational Facilities of the State.
3. Study of the Office of Commissioner of Welfare and the Public Welfare Council.
4. Reclassification of Classified Employees.

#### Nebraska

1. Old Age Assistance and Relief
2. Homestead Tax Exemption
3. A Merit System for the State Civil Service
4. Obsolete and Conflicting Statutes
5. Local Government Reorganization



Illinois

1. Circuit Court Redistricting
2. State Labor Preference Law for Public Works
3. Reapportionment in Illinois
4. Fish and Game Legislation
5. General Property Tax Study



## B. Kansas Statute

(References are to Revised Statutes Supplement of 1933)

46-301. Legislative council; membership; party representation. That there is hereby created a legislative council, which shall consist of ten senators and fifteen representatives, to be appointed by the president of the senate and the speaker of the house of representatives before the close of the 1933 session of the legislature and during each regular session thereafter, such appointments to be approved by a majority vote of the respective houses. The president of the senate shall be ex officio member and chairman, and the speaker of the house shall be ex officio member and vice chairman. The party representation on the council shall be in proportion generally to the relative number of members of the two major political parties in each house of the legislature, but in no event shall the majority party in either house be represented by more than two-thirds of the members of said council from either house. The president of the senate and the speaker of the house shall prepare their list of appointees so that the whole membership of the council shall include representation from each congressional district and representation from each of the more important committees of both houses. [L. 1933, ch. 207, sec. 1; March 14.]

46-302. Government and state welfare information; legislative program. That it shall be the duty of the council to collect information concerning the government and general welfare of the state, examine the effects of previously enacted statutes and recommend amendments thereto, deal with important issues of public policy and questions of state-wide interest, and to prepare a legislative program in the form of bills or otherwise, as in its opinion the welfare of the state may require, to be presented at the next session of the legislature. [L. 1933, ch. 207, sec. 2; March 14.]

46-303. Investigations and studies; law enforcement. That it shall be the duty of the council: (1) To investigate and study the possibilities for consolidations in the state government, for elimination of all unnecessary activities and of all duplication in office personnel and equipment, and of the coordination of departmental activities, and of methods of increasing efficiency and of effecting economies. (2) To investigate and study the possibilities of reforming the system of local government with a view to simplifying the organization of government. (3) To cooperate with the administration in devising means of enforcing the law and improving the effectiveness of administrative methods. [L. 1933, ch. 207, sec. 3; March 14.]

46-304. Testimony in investigations; fees and mileage of witnesses. That in the discharge of any duty herein imposed the council shall have the authority to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the district courts. In case of disobedience on the part of any person to comply with any subpoena issued in behalf of the council, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, it shall be the duty of the district court of any county, or of the judge thereof, on application of a member of the council, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. Each witness who appears before





the legislative council by its order, other than a state officer or employee, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by such witness and approved by the secretary and chairman of the council. [L. 1933, ch. 207, sec. 4; March 14.]

46-305. Studies by state and local officials. Each officer, board, commission or department of state government or any local government, shall make such studies for the council as it may require and as can be made within the limits of its appropriation. [L. 1933, ch. 207, sec. 5; March 14.]

46-306. Meetings; quorum. That the council shall meet as often as may be necessary to perform its duties: Provided, That in any event it shall meet at least once in each quarter. Fifteen members shall constitute a quorum, and a majority thereof shall have authority to act in any matter falling within the jurisdiction of the council. [L. 1933, ch. 207, sec. 6; March 14.]

46-307. Governor's message. That the governor shall have the right to send a message to that session of the council convening next after the adjournment of the regular session of the legislature, and may from time to time send additional messages containing his recommendations and explaining the policy of the administration. [L. 1933, ch. 207, sec. 7; March 14.]

46-308. Secretary; employment of assistants and research agencies. That the revisor of statutes shall act as secretary of said council, and the said council may require the services of the legislative reference library, and the council may employ such assistants and engage the services of such research agencies as it may deem desirable, and its appropriation permits, in the preparation of a program of legislation or in regard to any matters of state-wide public importance within the jurisdiction of the legislative branch. [L. 1933, ch. 207, sec. 8; March 14.]

46-309. Minutes and reports; rights of members of legislature. That the council shall keep complete minutes of its meetings and shall make periodic reports to all members of the legislature, and keep said members fully informed of all matters which may come before the council, the actions taken thereon, and the progress made in relation thereto. Any member of the legislature shall have the right to attend any of the sessions of the council, and may present his views on any subject which the council may at any particular time be considering, but he shall not have the right to participate in any decision which the council may make. [L. 1933, ch. 207, sec. 9; March 14.]

46-310. Recommendations to legislature. That the recommendations of the council shall be completed and made public at least thirty days prior to any session of the legislature at which such recommendations are to be submitted; and a copy of said recommendations shall be mailed to the post office address of each member of the legislature, to each elective state officer, and to the state library. [L. 1933, ch. 207, sec. 10; March 14.]

46-311. Compensation of members. That members of the council and the chairman and vice chairman thereof shall be compensated for the time spent in attendance at sessions of the council at the rate of three dollars per



day and actual expenses incurred while attending said session. [L. 1933, ch. 207, sec. 11; March 14.]

46-312. Invalidity of part. That if any section, subsection, paragraph or provision of this act shall be held invalid by any court for any reason, it shall be presumed that this act would have been passed by the legislature without such invalid section, subsection, paragraph or provision, and such finding and construction shall not in any way affect the remainder of this act. [L. 1933, ch. 207, sec. 12; March 14.]



C. Procedure Of Kansas Council

When the Council was first organized it was labeled a "little legislature" primarily because of its formal rules. However these rules were revised in June 1935 in order to make the sessions more informal.

New subject matter introduced at a Council meeting normally takes the form of a proposal. It is referred to a standing or to a special committee, or it may receive preliminary consideration immediately. The proposal may receive an unfavorable vote at the meeting at which it is introduced. However, all proposals that seem to have any merit are usually referred to the research staff for a preliminary statement or for an analysis of the facts. During the interim between Council sessions the research is carried on, and at the next quarterly meeting the results of this research are made known. Preliminary and supplementary research reports are made available to all members of the Council, to all other legislators, and to a mailing list of over one thousand citizens. Usually a bill will receive consideration at two Council meetings before final action. The tendency has been to postpone the final decision until a date close to the legislative session with the result that bills are not drafted until the two meetings immediately preceding the legislative session. A bill that has the approval of two-thirds of the Council is submitted to the legislature with the Council's recommendation; a bill that has the approval of a majority of the Council is submitted without recommendation. Under the original plan, these two types of bills were to make up the Council's program. However, there have been several measures upon which the Council has failed to reach an agreement, but which were considered important enough for legislative consideration and concerning which there was a large amount of research material. The Council submitted these measures accompanied by the research material.



D. Bibliography

- Bromage, Arthur W., "State Reorganization," National Municipal Review, Dec., 1935, v. 24: 365-370. The Legislative Council, p. 369.
- Buck, Arthur E., "Modernizing Our State Legislatures," American Academy of Political and Social Science. Pamphlet Series, No. 4, 1936. Legislative Council, p. 20-22.
- Business Week, Dec. 4, 1937. "Kansas Shows Way: Other States Adopt Its Plan of Sifting Important Bills Through a Legislative Council."
- Chamberlain, Joseph P., Legislative Processes, National and State, 1936. "Legislative Councils," p. 254-257.
- Commonwealth Club of California. The Legislative-Executive Cooperative Council of California, Section on Legislation and Elections, June 12, 1934.
- Transactions, November 15, 1934. Reference to plan for legislative council.
- Corrick, Franklin, "Previews" (Kansas Legislative Council) State Governments, November, 1934, v. 7: 250-252.
- Kansas Legislative Council, Report and Recommendations Submitted to the Legislature, Dec. 8, 1936.
- Dorr, Harold M., "A Legislative Council for Michigan," American Political Science Review, April, 1934, v. 28: 270-275.
- Forms, Rules and Committee Assignments of the Illinois Legislative Council.
- Gallagher, Hubert R., "Legislative Councils," National Municipal Review March, 1935, v. 24: 147-151.
- Gaus, John M., "The Wisconsin Executive Council," American Political Science Review, Oct., 1932, v. 26: 914-920.
- and White, Leonard D., "Public Administration in the United States in 1934," American Political Science Review, v. 29: 442-451.
- Guild, Frederick L., "Achievements of the Kansas Legislative Council," American Political Science Review, Aug., 1935, v. 29: 636-639.
- "The Development of the Legislative Council Idea," Annals of the American Academy of Political and Social Science, Jan., 1938, v. 195: 144-150.
- "Kansas' Experiment With A Legislative Council," Kansas Legislative Council. Research Department, Publication No. 42, Aug., 1936.
- Journal of Illinois Legislative Council.
- Lyly, Fred C., "Government By Test Tube," Current History, v. 49, No. 6, p. 35.





Luce, Robert L., Legislative Problems, 1935, 691-695.

McHenry, Dean E., "The Legislative Council Idea," California University Bureau of Public Administration. Legislative Problems No. 1, Dec. 1, 1934.

National Municipal League. Committee on State Government. A model state constitution. Revised ed. 1933, with explanatory articles. Secs. 29-32 (pp.5-6) of the model constitution provide for a legislative council. Explanatory article by H. W. Dodds, p.22-24.

National Municipal Review

----- "Legislative Councils for Virginia and Kentucky," Note, July 1936, v. 25, p.425.

----- "Connecticut Adopts Legislative Council," Note, May, 1937, v.

----- "More State Legislative Councils," Jan., 1938, v. 27:47.

New York State Constitutional Convention Committee, "Problems Relating to Legislative Organization and Powers," v. VII, pp.500-511.

Princeton University. School of Public and International Affairs. Report on a survey of administration and expenditures of the state government of New Jersey. 1932. Bill drafting p. 244.

Public Administration Clearing House. News Bulletins. Releases for June 5, 1936, Nov. 10, 1936, Oct. 30, 1937, Dec. 4, 1937 (mimeographed sheets).

Putney, Bryant, Legislative Councils, Editorial Research Reports, v.II, 1937, No. 3, Aug. 12.

Report of the Connecticut Commission Concerning the Reorganization of the State Departments, Jan. 25, 1937.

Report of the Illinois Legislative Council Submitted to the Legislature, Dec. 13, 1933.

Report of the Legislative Council of Connecticut, Dec. 1, 1938.

Report of the Washington advisory constitutional revision commission. Olympia, Washington, 1935. Legislative Council, pp. 15-20.

Report of Alaska Legislative Council.

Reports of Virginia Advisory Legislative Council.

Shaw, W. A., University of Virginia Law Lecter, June 15, 1933.

Small, Charles W., Legial Live Council in Michigan. National Municipal Review, Oct., 1933, v.22, p. 370-371.

----- "Model Legislative Council Reports," National Municipal Review, May 1933, v.22, p.369.



Smith, T. V., Echoes from Springfield - Leaves from the First Legislative Record of T. V. Smith.

----- "Illinois Calls on Kansas and Finds Kansas at Home," State Government. Dec. 1937, v. 10:252-254.

State Government

----- "Legislative Councils," State Government, June 1936, p. 132.

----- "Legislators Work Between Sessions," State Government, Nov. 1937.

Strain, Camden S., "The Kansas Legislative Council," American Political Science Review, Oct. 1933, v. 27:300-303.

----- "The Kansas Legislative Council," National Municipal Review, Sept. 1933, v.22:462.

U. S. Library of Congress. State Law Index.

Willoughby, William Franklin, Principles of Legislative Organization and Administration, 1934. Legislative Councils:p.594.



Newspaper Articles

Connecticut

New Haven Journal Courier, April 3, 1937; April 23, 1937.

New York Times, April 14, 1937.

Illinois

Chicago Daily Tribune, July 3, 1937; July 2, 1937; Jan. 11, 1938;  
July 13, 1937; July 1, 1937.

New York Times, Jan. 30, 1938.

Kansas

Topeka Daily Capital, Jan. 19, 1933; Jan. 26, 1933; Feb. 2, 1933;  
Feb. 22, 1933; Feb. 28, 1933; March 1, 1933;  
March 10, 1933; May 16, 1933; May 18, 1933;  
Nov. 14-19, 1938.

Lincoln State Journal, April 7, 1937.

Nebraska

Omaha Evening World Herald, April 7, 11, 14, May 3, 1937.

Virginia

Richmond News Leader, Mar. 26, 27, April 12, Dec. 9, 1935; Feb. 8, 1938.

